

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 16 is objected to because of the following informalities: the term 'in the sense of' is unnecessary and may subject the claim to interpretation or a 112, 2nd rejection for lack of antecedent basis.. Appropriate correction is required.

A review of the claims and updated search necessitated the rejections below.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "the obligation" in line 2. There is insufficient antecedent basis for this limitation in the claim.
2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. Claim 1 recites the limitation "the interest rate" in line 5. There is insufficient antecedent basis for this limitation in the claim.

3. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16 recites the limitation "the debt" in line 2. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16 recites the limitation "the borrower" in line 4. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Lunde (Fifteen years with index-linked mortgages, Netherlands Journal of Housing and the Built Environment, Vol. 12, 1997, No. 4).

As per claim 1;

Lunde discloses:

Financial product, in which an amount of money is provided as a loan principal in return for, at least partially, the obligation to make periodical payments on the loan during a term, wherein the amount of the periodical payments is index-linked (pg. 402, definition) during at least a part of the loan term to an index number, which refers to economical development (pg. 405 (d)) and wherein the interest rate has a long term fixed character (pg. 405(a)).

As per claim 2;

Lunde discloses:

Financial product according to claim 1, wherein the index number is a price index number (pg. 405, (d)).

As per claim 3;

Lunde discloses

Financial product according to claim 2, wherein the index number is determined by the average inflation over an elapsed period (pg. 402, paragraph 2).

As per claim 4;

Lunde discloses:

Financial product according to claim 2, wherein the index number is calculated as a function of a forecasted annual inflation (pg. 416, paragraph 3).

As per claim 5;

Lunde discloses:

Financial product according to claim 4, wherein the index number has a long term fixed character (pg. 405 (a)).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lunde as applied to claims 1-5 above, and further in view of Official Notice.

As per claim 6;

Lunde discloses:

Financial product according to claim 1.

Lunde does not disclose:

wherein the frequency of the obligatory periodical loan payments are set on a monthly basis and that the amount of the monthly loan payment is annually adjusted on basis of an index number.

However, Official Notice is taken that it is old and well known in the art to adjust the monthly loan payment annually on variable rate mortgage products.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the product disclosed by Lunde with the annually adjustable payment feature of a variable rate mortgage product. One of ordinary skill in the art would be motivated to do so in order to factor the changing index rate into the payment amount.

Claims 7-10 are rejected under the same rationale used to reject claim 6.

As per claim 11;

Lunde discloses:

The financial product of claim 1.

Lunde does not disclose:

Financial product according to claim 6, wherein the amount of the periodical loan payment is fixed for the period of a year until an annual adjustment.

However, Official Notice is taken that it is old and well known in the art to fix the amount of the loan payment between annual adjustments made to a variable rate mortgage product.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the product disclosed by Lunde and the annually fixed loan payments of a variable rate mortgage product. One of ordinary skill in the art would be motivated to do so in order to stabilize the monthly payment amount for the required contractual period.

Claims 12-15 are rejected under the same rationale used to reject claim 11.

2. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lunde as applied to claims 1-4 above, and further in view of Nalebuff et al. (2003/0110122).

As per claim 16;

Lunde discloses:

Financial product according to claim 1

Lunde does not disclose:

wherein an allowed fluctuation of the index number affects either the term of the loan or the debt remaining at the end of said term, allowing said debt in case of a fixed term to be negative in the sense of constituting a surplus value in favor of the borrower.

However, Nalebuff discloses:

A mortgage product coupled with an insurance product and based on a real estate index, which can reduce the term of the mortgage based on a change in the real estate index (paragraph 0037).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the products disclosed by Lunde and Nalebuff et al. One of ordinary skill in the art would be motivated to do so in order to provide risk abatement in fluctuating markets.

Claims 17-19 are rejected under the same rationale used to reject claim 16.

3. Claims 20-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Lunde in view of Official Notice as applied to claims 6-9 above, and further in view of Nalebuff et al. (2003/0110122).

As per claim 20;

Lunde discloses:

A financial product according to claim 1.

Lunde does not disclose:

Financial product according to claim 6, wherein an allowed fluctuation of the index number affects either the term of the loan or the debt remaining at the end of said term, allowing said debt in case of a fixed term to be negative in the sense of constituting a surplus value in favor of the borrower.

However, Nalebuff et al. discloses:

A mortgage product coupled with an insurance product and based on a real estate index, which can reduce the term of the mortgage based on a change in the real estate index (paragraph 0037).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the products disclosed by Lunde and Nalebuff et al. One of ordinary skill in the art would be motivated to do so in order to provide risk abatement in fluctuating markets.

Claims 21-23 are rejected under the same rationale used to reject claim 20.

4. Claims 24-27 rejected under 35 U.S.C. 103(a) as being unpatentable over Lunde in view of Official Notice as applied to claims 11-14 above, and further in view of Nalebuff et al. (2003/0110122).

As per claim 24;

Lunde discloses:

A Financial product according to claim 11.

Lunde does not disclose:

wherein an allowed fluctuation of the index number affects either the term of the loan or the debt remaining at the end of said term, allowing said debt to be negative in case of a fixed term.



However, Nalebuff et al. discloses:

A mortgage product coupled with an insurance product and based on a real estate index, which can reduce the term of the mortgage based on a change in the real estate index (paragraph 0037).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the products disclosed by Lunde and Nalebuff et al. One of ordinary skill in the art would be motivated to do so in order to provide risk abatement in fluctuating markets.

Claims 25-27 are rejected under the same rationale used to reject claim 24.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Rankins whose telephone number is 571-270-3465. The examiner can normally be reached on M-F 7:30 AM - 5:00 PM, off alt Fridays beg 6/15/07.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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